

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.673/2006

Reserved on.21.6.2007

Decided on. July 12, 2007

The Chairman Baba Balak Nath Trust. ...Petitioner.

Versus

Amar Nath and another. ...Respondents

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?¹.No.

For the petitioner : Mr. K.D. Sood, Advocate.

For the respondent No.1. Mr. Ajay Sharma, Advocate.

Rajiv Sharma, J.

A challenge has been laid to the award dated 25.10.2005 passed by the Labour Court-cum-Industrial Tribunal, Dharamshala in reference No.167/2001.

The brief facts necessary for the adjudication of this petition are that after the conciliation proceedings had failed, the State Government made the following reference on 28th August, 2004 to the Labour Court-cum-Industrial Tribunal, Dharamshala:

“Whether the termination of services of Shri Amar Nath, S/O Sh. Hari Krishan, by the Sub Divisional Officer (Civil)-cum-Chairman, Trust Baba Balak Nath Temple, Deotsidh at Barsar, District Hamirpur, H.P. w.e.f. 16.12.1998 without compliance of section 25-G and 25-H of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation Shri Amar Nath is entitled to?”

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?* No

In sequel to the reference made by the State Government, the respondent (hereinafter referred to as the workman) had filed the statement of claim before the Labour Court wherein he had claimed that the termination order dated 6.11.1998 was bad in law. He had stated in his statement of claim that he was engaged in the month of June/July, 1997 and had completed 240 days when his retrenchment was effected. The management had filed the reply to the statement of claim and had denied the contents of the claim. The Labour Court had answered the reference in the affirmative vide award dated 25.10.2005.

Mr. K.D. Sood, Advocate appearing on behalf of the petitioner had strenuously argued that the award dated 25.10.2005 is not sustainable in the eyes of law.

Mr. Ajay Sharma, Advocate appearing on behalf of the workman had supported the award dated 25.10.2005 passed by the Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala.

I have heard the parties and perused the record.

The workman had appeared as PW-1 before the Labour Court and had testified that he was engaged in the month of June/July, 1997 and had completed 240 days prior to his retrenchment effected on 16.12.1998. Sh. Raj Kumar, Junior Assistant had appeared before the Labour Court on behalf of the management as RW-1. The Labour Court after discussing the evidence had come to a conclusion that the notice issued to the workman on 6.11.1998 was received by him on 21.11.1998 and on that basis services could be terminated with effect from 20.12.1998 and not on 15.12.1998 as mentioned in notice dated 6.11.1998. It was admitted case of the parties before the Labour Court that workman had completed 240 days and was entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. Though notice had been issued to the workman

under section 25-F of the Industrial Disputes Act, 1947, but it was defective as discussed above.

Accordingly this court is of the opinion that the award made by the Labour Court is in accordance with law. There is neither any jurisdictional error nor any procedural irregularity in the award dated 25.10.2005 passed by the Labour Court.

Consequently there is no merit in the writ petition and the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

July 12, 2007
Awasthi